

# M. CHRISTOPHER RESIDENTIAL

## NEW HOME SALES CONTRACT

This New Home Sales Contract (Contract) is entered into on the Effective Date by and between KOKONIA (Buyer),  
MCCH Industries, L.L.C. (Seller), and M. Christopher Residential L.L.C. (Builder) regarding Lot 9, Block A,  
PRISTAL PARK Addition, City of LUCAS, COLIN County, Texas, also known as  
835 BENTWATER and all improvements to be constructed thereon (Property).

### A. TERMS.

1. **CASH DEPOSIT.** The Cash Deposit is \$ [REDACTED], which shall be applied towards the Total Contract Price at Closing, and an  
Additional Deposit of \$ [REDACTED] is due on WIRING ON OR BEFORE 8/21/15

2. **TOTAL CONTRACT PRICE.** The Total Contract Price shall equal the sum of the following, subject to adjustment as provided herein:

: Base Price: \$ [REDACTED]  
Custom Options: \$ [REDACTED]  
Pool Allowance: \$ INC. 10 OPTIONS  
Lot Prep Allowance: \$ —  
Other: \$ —  
Total Contract Price: \$ [REDACTED]

CONTINGENT UPON  
OBTAINING APPROVED  
FINANCING ON OR BEFORE  
9/18/15. IF FINANCING IS  
NOT OBTAINED BY 9/18/15  
I SHALL RECEIVE  
FULL REFUND

3. **CLOSING:** Closing will occur within 5 working days after Substantial Completion.

4. **ESTIMATED COMPLETION DATE.** 180 working days from the Commencement Date (if the Improvements are not already completed).

5. **PLANS.** Prepared by ☒ Seller, plans as of the Effective Date and subject to amendment as provided herein.

6. **SPECIFICATIONS.** Prepared by ☒ Seller, subject to amendment as provided herein.

7. **PROPERTY OWNERS ASSOCIATION:** This Property may be subject to a mandatory property/homeowner's association.

8. **SELLER CLOSING COSTS:** All closing costs are the responsibility of Buyer, to include deed preparation, tax certification, etc.

9. **WARRANTY:** Buyer hereby acknowledges receipt of the Express Builder Warranty.

10. **SELLER'S OPTION TO TERMINATE:** The Seller's Option Fee to terminate the Contract, as further provided for in paragraph 12, is \$250.00

11. **ATTACHMENTS.** The following documents are incorporated into the Contract and collectively referred to as the Contract Documents: 2

- |                                                                    |                                                                                  |
|--------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Plans                          | <input type="checkbox"/> Addendum F - Financing                                  |
| <input type="checkbox"/> Addendum A - Sale of Available Home       | <input checked="" type="checkbox"/> Addendum R - Commission Protection Agreement |
| <input type="checkbox"/> Addendum B - Insulation & Specifications  |                                                                                  |
| <input checked="" type="checkbox"/> Addendum C - Change Order Form |                                                                                  |
| <input type="checkbox"/> Addendum D - Payment Schedule             |                                                                                  |

### B. GENERAL CONDITIONS.

**THIS DOCUMENT CREATES IMPORTANT LEGAL OBLIGATIONS THAT YOU SHOULD UNDERSTAND PRIOR TO SIGNING. YOU SHOULD READ IT THOROUGHLY AND IF YOU ARE UNCERTAIN OR HAVE QUESTIONS ABOUT YOUR RIGHTS, OBLIGATIONS OR RESPONSIBILITIES UNDER THIS CONTRACT, YOU MAY WISH TO CONSULT AN ATTORNEY.**

Builder [Signature] Buyer [Signature]



ALL TERMS, CONDITIONS, AND EXECUTION OF THIS CONTRACT INCLUDING, BUT NOT LIMITED TO, PRICING, POLICY, AND ALL CIRCUMSTANCES RELATED TO OR INCLUDED IN THE CONSTRUCTION PROCESS ARE CONSIDERED CONFIDENTIAL AND ARE NOT TO BE DISCLOSED BUY BUYER EXCEPT AS NECESSARY TO LEGAL COUNSEL OR APPROPRIATE LEGAL AUTHORITY OR AS MUTALLY AGREED UPON BY BOTH PARTIES TO ENFORCE THIS CONTRACT.

1. **CONTRACT PRICE.** Buyer shall pay Seller the Total Contract Price, as adjusted herein, in good funds for Seller's and Builder's performance of the Contract and sale of the Property.

A. **CASH DEPOSIT.** Upon execution of this Contract, Buyer shall pay Seller the Cash Deposit, which unless otherwise provided herein, is non-refundable but shall be applied to the Total Contract Price at Closing and is a condition precedent to the enforcement of this Contract.


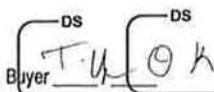
B. **FINANCING.** If Buyer finances any portion of the Total Contract Price, Buyer shall pay all closing costs, including, but not limited to, the loan itself, fees, and all related expenses. The amount financed by Buyer or any appraisal shall not limit the Total Contract Price. Buyer shall apply for financing within five business days of the Effective Date. Buyer voluntarily gives permission for Seller or its agents to request, from any lender or credit bureau, information that is legally obtainable under the Fair Credit Reporting Act ("FCRA"), including, but not limited to mortgage application, all related credit information, consumer reports, consumer investigative reports and/or credit scores. Buyer hereby gives permission to any lender or credit bureau to release this information to Seller or its agents and releases them from any liability or responsibility related to providing such information. Buyer acknowledges that it has rights under the FCRA related to such information. Should Buyer fail to obtain and provide Seller written notice of lender approved financing within thirty days of the Effective Date, Buyer may terminate this Contract by providing written notice to Seller and receive a full refund less expenses incurred as liquidated damages. Seller and Buyer agree that because of the difficulty in ascertaining the exact damages, the liquidated damages are a reasonable sum (and not a penalty) considering the damages Seller will sustain in the event this Contract is terminated. If Buyer is not obtaining financing to pay the Total Contract Price, at the Effective Date and at any time during construction, upon Seller's request, Buyer shall provide written documentation reasonably satisfactory to Seller to evidence Buyer's ability and continued ability to pay the Total Contract Price.

C. **VA/FHA Appraisal.** Except for conventional mortgages, it is expressly agreed that notwithstanding any other provision of this Contract, the Buyer shall not be obligated to complete the purchase of the Property or incur any penalty by forfeiture of the Cash Deposit or otherwise: (1) unless Seller has delivered to the Buyer(s) a written statement issued by the Federal Housing Commissioner setting forth the appraised value of the Property (excluding closing costs) of not less than the Purchase Price, which statement Seller hereby agrees to deliver to Buyer promptly after such appraised value statement is made available to Seller; or (2) if any VA loan to be made in connection with this Contract exceeds the reasonable value of the Property established by the VA. Buyer shall, however, have the option of proceeding with the consummation of this Contract without regard to the amount of the appraised valuation made by the Federal Housing Commissioner or in the case of a VA loan, without regard to the amount of the reasonable value established by the VA.

D. **CHANGE ORDERS.** Seller shall also be entitled to and receive the specific price for the labor, materials, and other charges (and additional days to the Estimated Completion Date) that are attributable to one or more Change Orders. A "Change Order" is a written or oral agreement between the Buyer and Seller to make changes, additions and/or deletions to the Plans and Specifications. If Seller agrees to perform the extra work required by a Change Order (and it has no present obligation to do so), the price included in the Change Order will be treated as an increase in the Total Contract Price. The Change Order shall be paid in full when the Change Order is signed by the Parties and the funds for the Change Order are deposited. Funds received for Change Orders are non-refundable. Buyer agrees that any Buyer signatory to this Contract can individually authorize and approve a change order in a written or oral agreement. Each Buyer signatory is designated an attorney-in-fact for any other Buyer signatory for this purpose, and Seller is entitled to rely and act on any such Change Order signed by any Buyer signatory. If the increase in the Total Contract Price for a Change Order cannot be ascertained before commencement of the extra work, an allowance shall be created for the Change Order with the increase being estimated, and that amount deposited with the Seller. The Builder and Seller shall not be required to commence the work called for in the Change Order until the specified or estimated increase in the Total Contract Price is paid in full. To the extent of a conflict between a Change Order and the Contract Documents, the Change Order shall control. Any proposed Change Order that is not approved in a written or oral agreement by Buyer within three calendar days after Buyer's receipt will be deemed rejected. Seller does not warrant that any Change Order will increase the appraised value of the Property.

E. **CONCEALED CONDITIONS.** Should concealed conditions be encountered below the surface of the ground or in an existing structure, the Total Contract Price shall be equitably adjusted by Change Order.

F. **PROPERTY, PRICING, & PREMIUMS.** Seller establishes the price for the Property and other lots based on numerous factors, such as location, size, shape, and additional charges by the developer. On occasion, there may be additional factors that currently exist but are subject to change in the future, such as existing views or trees on the Property. Buyer hereby acknowledges and agrees that none of Seller's and/or Builder's employees, agents, or representatives have made any representations, warranties or statements assuring Buyer that any factors related to the Property will remain as they currently exist as of the Effective Date. To the extent that a premium was charged for the Property, Buyer assumes all risk related to changes in any factors, conditions, or circumstances related to or associated with the Property premium, including, without limitation, change in the condition of views, and/or trees, and in no event shall Seller or Builder be obligated to refund the Property premium or to pay Buyer any other compensation related to or connected with the Property Premium.

Builder  Buyer 



**2. CONSTRUCTION.**


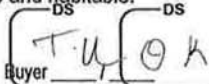
**A. IMPROVEMENTS.** Builder and Seller shall furnish all labor, materials, fuel, equipment, tools, machinery, and supplies; perform all work; obtain all necessary permits; pay all state sales taxes; provide the insurance required herein; and do all things necessary to complete the work substantially in accordance with the Plans and Specifications, all applicable building codes and the Express Builder Warranty using new materials unless otherwise provided for in the Contract Documents (Improvements). The Seller may resolve discrepancies or omissions in the Contract Documents at its reasonable discretion.

**B. CONSTRUCTION MEANS & METHODS.** Builder and Seller will retain sole control over the means, methods, techniques, scheduling and progress of construction, including the exclusive right to select and arrange for all labor (except that work for which Buyer has contracted directly with contractors or suppliers, subject to that work being expressly permitted by Seller). Builder and Seller shall not be required to provide professional services that constitute the practice of architecture or engineering unless specifically required by the Contract Documents.

**C. FINAL INSPECTION & POSSESSION.** At or prior to Closing, Buyer shall conduct a walk-through of the Improvements and will execute and deliver to Seller the Final Punch List in the form attached that confirms Buyer's inspection and acceptance of the Improvements, Buyer's acknowledgement that all construction has been completed as required, and releasing Seller and Builder from all claims and liabilities, except warranty obligations arising under the Builder's Express Warranty and agreed punch list items to be completed. The date and hour of such walk-through shall be mutually agreed upon between the Parties and shall take place during normal business hours, Monday through Friday between 8:00 a.m. and 4:30 p.m. **Failure of Buyer to complete a scheduled walk-through shall be deemed a waiver of same and of Buyer's right to have punch list items repaired.** Conveyance of title in the Property shall be deemed to be full performance by Builder and Seller of their obligation hereunder. Buyer agrees that there shall be no inspections or access to the Property by Buyer at any time prior to Closing unless accompanied by an agent of the Seller.

**D. PERMITS.** If applicable, prior to the Commencement Date, Builder shall use reasonable efforts to obtain all required building permits. If Builder is unable to obtain any required permit, this Contract will automatically terminate and the Cash Deposit shall be refunded to Buyer less any reasonable expenses incurred by Builder and/or Seller that in any way relate to the construction of the improvements. The cost of all permits shall be included in the Total Contract Price

**E. SUBSTANTIAL COMPLETION.** Substantial Completion shall occur at the earlier of (i) when a certificate of occupancy or final green tag is issued by the applicable municipality, (ii) when all inspections required by Tex. Local Gov't. Code, Chapter 233 have been performed, as applicable, or (iii) if neither (i) nor (ii) apply, when the Improvements have been constructed substantially in accordance with the Contract Documents. Completion of any punch list item is not required to reach Substantial Completion. Should Buyer close the purchase of the Property, Buyer acknowledges the improvements are complete and habitable.

Builder  Buyer 

**F. OWNERSHIP OF CONTRACT DOCUMENTS.** If Buyer, Seller, and/or Builder provide all or part of the Contract Documents, the party providing such documents acknowledges that Buyer, Seller, and Builder have permission to use such Contract Documents. **THE PARTY PROVIDING THE CONTRACT DOCUMENTS SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE OTHER PARTY FROM ANY CLAIM OF INFRINGEMENT OF A COPYRIGHT OR OTHER PROPRIETARY RIGHTS OF ANY THIRD PARTY ARISING FROM THE USE OF, OR REFERENCE TO, ANY SCHEMATIC DRAWINGS, SKETCHES, PLANS AND/OR SPECIFICATIONS PROVIDED BY ANY PARTY HERETO USED TO CONSTRUCT THE IMPROVEMENTS.** Either party, at its option, may conduct its own defense without invalidating the terms of the aforementioned indemnity.

**G. PRIVATE INSPECTIONS.** If Buyer uses a private home inspector or consultant to inspect the Property, the inspector must satisfy the following requirements at the time of inspection: (a) maintain all business licenses required by law; (b) be a member of the American Society of Home Inspectors, the Texas Association of Home Inspectors, or other professional inspection association mutually agreed upon in writing prior to the inspection; and (c) have general liability insurance and professional liability errors and omissions insurance of at least \$500,000 per occurrence. Prior to the inspection, Buyer must provide Seller with proof that the inspector satisfies these requirements. Arrangements for a private inspection must be made at least one (1) week in advance of the proposed inspection. If the inspector concludes that there are code violations, the inspector must provide the complete report specifying the applicable code(s) and section(s) for each alleged violation. Any inspection must evaluate construction solely in accordance with the applicable building code, any amendments thereto adopted by the local municipality, the Contract Documents, and the Express Builder Warranty.

**H. USED/ANTIQUE OR BUYER SUPPLIED MATERIALS.** Buyer acknowledges that neither Builder nor Seller shall be liable for, required to warrant, or otherwise be responsible for defects in or damages caused by used or antique or buyer supplied materials requested by Buyer to be incorporated into the Improvements.

**I. FIRE SUPPRESSION.** Unless specifically provided for in the Plans or Specifications or Change Orders, Buyer hereby waives Buyer's right to have a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system installed, as those terms are defined in Tex. Occup. Code § 1301.551.

**J. INSULATION.** The thickness of insulation in certain areas may be less than specified above if the design of the Improvements or structural elements does not permit greater thicknesses. Examples of where the thickness of the insulation, and therefore R-values, may vary are wall stud locations, corners, windows, where roof rafters attach to outside walls, and locations purposefully not insulated so as to maximize ventilation.

**K. SQUARE FOOTAGE.** Buyer acknowledges that any statement or representation made as to the square footage of the Improvements to be sold by this Contract are estimates only and are not meant to be statements of fact or binding obligations on the part of Builder or Seller.



**L. BUYER'S SUBCONTRACTORS/SUPPLIERS & INDEMNIFICATION.**

Buyer may not perform or have performed any work at the Property without the express written consent of Seller. Builder and Seller shall not be obligated to supervise or warrant any work performed by Buyer or Buyer's subcontractors or suppliers. **BUYER SHALL INDEMNIFY, RELEASE, DEFEND (USING ATTORNEYS APPROVED BY SELLER), AND HOLD HARMLESS BUILDER, SELLER, AND THEIR DIRECTORS, OFFICERS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, REPRESENTATIVES, SUBCONTRACTORS, SUPPLIERS, INVITEES, EMPLOYEES AND AGENTS FROM ANY AND ALL CLAIMS, ATTORNEYS' FEES, OR CAUSES OF ACTION THAT IN ANY WAY RELATE TO THE WORK PERFORMED AND/OR MATERIALS SUPPLIED BY BUYER, BUYER'S AGENTS AND/OR BUYER'S SUBCONTRACTORS OR SUPPLIERS AT THE PROPERTY DURING CONSTRUCTION OF THE IMPROVEMENTS ON ACCOUNT OF BODILY INJURY, DEATH OR DAMAGE TO OR LOSS OF PROPERTY. THIS RELEASE AND INDEMNITY IS GIVEN TO BUILDER AND SELLER REGARDLESS OF WHETHER BUILDER, SELLER, OR THEIR AGENTS OR EMPLOYEES ARE NEGLIGENT IN WHOLE OR IN PART AND EVEN WHEN THE INJURY, DEATH OR DAMAGE TO BUYER OR BUYER'S AGENTS, LICENSEES AND INVITEES IS CAUSED BY THE SOLE NEGLIGENCE OF BUILDER AND/OR SELLER.**

**3. COMMENCEMENT & COMPLETION (IF APPLICABLE).**

**A. COMMENCEMENT.** Builder shall commence construction within fifteen business days after the last to occur of (i) Buyer is approved for construction financing, (ii) Seller's receipt of written notice from the Buyer's lender that all lender required documents are recorded, (iii) Buyer has obtained all necessary approvals, including those required from a homeowners' association, architectural review committee, or similar committee or association, and (iv) the issuance of all building permits and required approvals (**Commencement Date**).

**B. COMPLETION.** Builder shall use reasonable efforts to reach **Substantial Completion by the Estimated Completion Date**, subject to the Permitted Delays. **HOWEVER, BUYER SHALL NOT BE ENTITLED TO ANY DAMAGES FOR ANY DELAY, WHETHER OR NOT EXCUSABLE, IN COMPLETION OF CONSTRUCTION AND BUYER RELEASES BUILDER AND SELLER FROM ALL LOSSES, COSTS, EXPENSES, FEES, OR DAMAGES INCURRED BY BUYER, WHICH ARISE OUT OF SELLER AND/OR BUILDER'S FAILURE TO REACH SUBSTANTIAL COMPLETION BY THE ESTIMATED COMPLETION DATE, A REASONABLE PERIOD OF TIME, OR ANY DEADLINE IDENTIFIED IN ANY OTHER AGREEMENT EXECUTED BY THE PARTIES.**

**C. PERMITTED DELAYS.** The Commencement Date and Estimated Completion Date shall be extended, without notice, for any one or more of the following causes: (i) delays caused by conditions beyond the control of Builder and/or Seller; (ii) the unavailability of required materials, labor and/or services from subcontractors, (iii) interference by or disputes with Buyer or other subcontractors employed by Buyer, (iv) Change Orders, (v) fire, casualty, or acts of God, (vi) inclement weather that interferes with normal scheduling of the work, or (vii) failure of Buyer to promptly fund draw requests or to timely make decisions or selections of allowance items, colors, or materials.

Builder

Buyer

**4. CLOSING.**

**A. CLOSING.** Closing will occur within 5 working days after **Substantial Completion**. Except as otherwise provided, the closing of this Contract shall take place at the Title Company on the Closing Date, at which time Buyer agrees to pay to Seller the balance of the Total Contract Price and, upon funding, Seller shall deliver possession of the Property to Buyer. If prior to the Closing Date, Buyer provides written notice to Seller that the Title Company is not prepared to issue the Title Policy per this Contract, the Closing Date may be postponed for not more than thirty days. The Closing Date shall take place on such postponed Closing Date if the Title Company has approved title in accordance with this Contract. At Closing, Seller shall furnish to Buyer tax statements or certificates showing no delinquent taxes and a special warranty deed conveying good and indefeasible title. The Property shall be conveyed free and clear of all liens except those created incident to the funding of Buyer's purchase money loan (if any) and showing no additional exceptions to those permitted in this Contract. Any extension of the Closing Date due to lender required matters or caused by Buyer or Buyer's agents shall result in an increase of the Total Contract Price equal to the total amount of additional per diem interest incurred by Seller on any loan secured by the Property plus per diem tax, maintenance, and utility expenses.

**B. MINERAL RESERVATION.** To the extent Seller owns the oil, gas and mineral rights on, in, and under the Property (Mineral Rights), Seller specifically reserves the Mineral Rights for Seller, Seller's heirs, executors, and assigns and excepts such Mineral Rights from the conveyance herein. Buyer acknowledges that Seller's reservation of the Mineral Rights includes by its terms all oil, gas, and any other minerals on, in, and under the Property conveyed.

**5. TITLE POLICY & SURVEY.**

**A. TITLE POLICY.** Buyer may obtain a Title Policy at **Buyer's Expense** and issued by the Title Company in the amount of the Total Contract Price, as amended, dated at or after Closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:

- 1) Restrictive covenants applicable to the platted subdivision in which the Property is located.
- 2) The standard printed exception for standby fees, taxes and assessments.
- 3) Liens created as part of the financing described in this Contract.
- 4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
- 5) Reservations or exceptions otherwise permitted by this Contract or as may be approved by Buyer in writing.
- 6) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements. Buyer, at Buyer's expense, may have the exception amended to read only, "shortages in area."
- 7) The standard printed exception as to marital rights.



- 8) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
- 9) Any items constituting an encumbrance upon or adversely affecting title to the Property as reflected by the Commitment or the Survey.

**B. COMMITMENT.** Within twenty (20) days after the Title Company receives a copy of this Contract, Buyer shall obtain a commitment for insurance (Commitment), at Buyer's Expense, and at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment other than the standard printed exceptions. Seller and Buyer authorizes the Title Company to email, mail, or hand-deliver the Commitment and related documents to Buyer at Buyer's address shown below. If the Commitment is not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days. It shall not be an act of default if the Title Commitment is not provided to Buyer within the required time period and Closing shall be extended to provide Buyer no more than ten calendar days to review such Title Commitment.

**C. SURVEY.** The Survey, at Buyer's expense if required, must be made by a registered professional land surveyor acceptable to the Title Company and any applicable lender. Utility easements created by the dedication deed and plat of the subdivision in which the Property is located will not be a basis for objection. Any survey requested by Buyer's lender shall be at Buyer's expense.

**D. RESOLVING TITLE OBJECTIONS.** Within ten (10) days after receipt by Buyer of the commitment and the Survey (if applicable) (Title Review Period), Buyer shall notify Seller in writing (Buyer's Objection Notice) of its objection to any such exceptions to title or disapproval of the Survey (Title Objections). Seller shall have ten (10) days (Seller's Cure Period) after receipt of Buyer's Objection Notice during which to cure such Title Objections. Seller shall exercise its reasonable best efforts to remove or cure any Title Objections set forth in Buyer's Objection Notice, provided, Seller shall not be obligated to incur any cost or expense in connection therewith. Notwithstanding the foregoing, Seller shall be obligated to discharge and cause to be released at Closing any lien securing a monetary obligation. In the event that Seller fails to cure the Title Objections to Buyer's satisfaction prior to the end of Seller's Cure Period, Buyer may, at its option, terminate this Contract by written notice to Seller whereupon the Cash Deposit will be refunded to Buyer and neither Seller nor Buyer shall have any further rights or obligations hereunder. Any exceptions to title disclosed in the commitment and not objected to by Buyer in Buyer's Objection Notice shall be deemed accepted by Buyer. The phrase Permitted Exceptions shall mean those exceptions to title set forth in the commitment and which have been accepted or deemed accepted by Buyer.

**6. ALLOWANCES (IF APPLICABLE).** The Parties have agreed to specific budgets for certain amenities and materials to be incorporated into the Improvements (Allowances). The sums allocable to each Allowance are included within the Total Contract Price. Each Allowance includes the component costs of material and labor (if any), plus any appropriate sales tax, profit and overhead, delivery and other costs associated with procurement. These Allowances are also premised on the understanding that purchases will be made from suppliers who are typically used by the Seller and do not

contemplate the payment of deposits, service fees, or the delays that may be encountered when other suppliers are used. As Seller incurs material and labor costs with respect to a specific Allowance, those costs shall be applied against the applicable Allowance. If an Allowance for any item is exceeded, the overage shall constitute an increase in the Total Contract Price without the need of a Change Order. Any savings resulting from reduced expenditures for Allowance items shall be credited against the Total Contract Price thru the use of a change order. Buyer is solely responsible for the adequacy of the Allowance amounts on appliances, fixtures, floor coverings, etc. since the sums to be spent are determined ultimately by the Buyer's subjective considerations of quality, style and functionality. Buyer shall make all selections applicable to the Allowances within five (5) days from date of request by Seller.

#### 7. NOTICES TO BUYER.

**A. ABSTRACT/TITLE POLICY.** Pursuant to the Texas Real Estate License Act § 1101.555, Seller advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

**B. NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE PROPERTY PER TEX. PROP. CODE § 5.012.** As a purchaser of property in the residential community in which this Property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, or operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **YOU ARE OBLIGATED TO PAY ASSESSMENTS TO THE PROPERTY OWNER'S ASSOCIATION. THE AMOUNT OF THE ASSESSMENTS IS SUBJECT TO CHANGE. YOUR FAILURE TO PAY THE ASSESSMENTS COULD RESULT IN ENFORCEMENT OF THE ASSOCIATION'S LIEN AND THE FORECLOSURE OF YOUR PROPERTY.** Tex. Prop. Code § 207.003 entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

**C. STATUTORY TAX DISTRICT.** If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Tex. Water Code, Chapter 49 requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this Contract.

Buyer:  Buyer: 



D. ENVIRONMENTAL RISK. The Seller makes no warranties, express or implied, about existing or future health hazards or environmental conditions on the Property, in the Improvements, or from adjacent sources, including, but not limited to, exposure to radon gas, electric and magnetic fields, shifting or instability of soil conditions and contamination of the Property or the surrounding air, water or soil from any sources or in any manner.

E. NOTICE REGARDING POSSIBLE ANNEXATION. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

F. VEGETATION. Construction of the Improvements will cause stress to existing vegetation and trees on the Property. The survivability of such vegetation during and after Closing cannot be guaranteed. **THEREFORE, BUYER RELEASES BUILDER AND SELLER FROM ANY CLAIMS OR DAMAGES TO LAWNS, TREES, SHRUBS, AND VEGETATION THAT OCCUR ALL OR IN PART AS A RESULT OF THE BUILDER'S AND/OR SELLER'S NEGLIGENCE OR GROSS NEGLIGENCE.**

G. CONSTRUCTION HAZARDS. When Buyer and/or Buyer's children, subcontractors, suppliers, invitees, or agents (Buyer Parties) enter the Property, **BUYER SHALL INDEMNIFY, RELEASE, DEFEND (USING ATTORNEYS APPROVED BY SELLER), AND HOLD HARMLESS BUILDER, SELLER AND THEIR DIRECTORS, OFFICERS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, SUBCONTRACTORS, SUPPLIERS, INVITEES, EMPLOYEES, REPRESENTATIVES, AND AGENTS (BUILDER PARTIES) FROM ANY AND ALL CLAIMS, ATTORNEYS' FEES, OR CAUSES OF ACTION BELONGING TO THE BUYER PARTIES DUE TO PERSONAL PROPERTY DAMAGE OR BODILY INJURY (INCLUDING DEATH) RELATED, DIRECTLY OR INDIRECTLY, TO THE IMPROVEMENTS, PROPERTY, AND/OR THE BUYER PARTIES ENTRY ONTO THE PROPERTY, REGARDLESS OF WHETHER THE BUILDER PARTIES ARE NEGLIGENT FOR ANY REASON, IN WHOLE OR IN PART, GROSSLY NEGLIGENT, AND EVEN WHEN THE INJURY, DEATH OR DAMAGE TO THE BUYER PARTIES IS CAUSED BY THE SOLE NEGLIGENCE OF THE BUILDER PARTIES.**


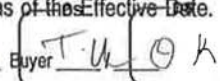
H. LOT, NEIGHBORHOOD, AND SITE CONDITIONS:

- 1) Property, Pricing, and Premium. Seller establishes the price for the Property and other lots based on numerous factors, such as location, size, shape, and additional charges by the Developer. On occasion, there may be additional factors that currently exist but are subject to change in the future, such as existing views or trees on the Property. Buyer hereby acknowledges and agrees that none of Seller's and/or Builder's employees, agents, or representatives have made any representations, warranties or statements assuring Buyer that any factors related to the Property will remain as they currently exist as of the Effective Date. To the extent that a premium

was charged for the Property, Buyer assumes all risk related to changes in any factors, conditions, or circumstances related to or associated with the Property premium, including, without limitation, change in the condition of views, and/or trees, and in no event shall Seller be obligated to refund the Property premium or to pay Buyer any other compensation related to or connected with the Property Premium.

- 2) Views and Privacy. The Property may be located in or near an area undergoing growth and development of residential, commercial, institutional and industrial sites. Therefore, any trees, water areas, hills, meadows, and other natural conditions near the Property (including, without limitation, those within sight of the Property) are subject to change. Seller has no liability for alteration or destruction of any view from the Property or any loss of privacy arising from development of nearby land or the removal or addition of trees, shrubs, or other vegetation.
- 3) Adjacent Land Use. Any statements made by Seller and/or Builder's employees, agents or representatives concerning the use or condition of land near the Property or neighborhood in which the Property is located and any zoning use information provided by Seller and/or Builder's employees, agents, or representatives are based solely on the limited information known to such person at the time of such statement and Seller disclaims the completeness, accuracy and validity of all such statements and information. Seller recommends that Buyer investigate the nearby land prior to the execution of this Agreement to verify the information provided by Seller and/or Builder's employees, agents, or representatives is accurate and/or whether it is the most recent and complete information available. Buyer also acknowledges that the use and condition of the land can change. In this regard, Buyer hereby represents and warrants to Seller that prior to the execution of this Agreement, Buyer has investigated the use and condition of such nearby land with the appropriate owners of such land the applicable governmental authorities or Buyer has elected, on Buyer's own accord and determination, to forego such investigation. Buyer hereby assumes all risk related to land use and/or change in land use adjoining or near the Property. Buyer further agrees that Seller has no liability for any use or condition of land near the Property or neighborhood in which the Property is located, regardless if any statements were made by Seller and/or Builder's employees, agents or representatives or if any zoning or use information was provided to Buyer by Seller and/or Builder's employees, agents, or representatives.

I. PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF UTILITY SERVICE PROVIDER. Notice required by Tex. Water Code § 13.257: The Property that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a

Builder  Buyer 



period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property.

**J. NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICTS.** If the Property is in a public improvement district, Tex. Prop. Code (TPC) §5.014 requires Seller to notify Buyer as follows: As a Owner of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

**K. DEREGULATION.** Due to deregulation, Seller cannot and does not control the installation of utilities not required for issuance of a certificate of occupancy. This includes, but is not limited to, telephone service, cable or satellite television service, gas, electricity, water, internet, etc. Buyer further acknowledges that the Improvements may be constructed and Property sold prior to all utilities being installed. The final location of utility lines and boxes may not have been determined and could be installed at a later date. This could impact the final landscaping and vegetation that will be allowed on the Property.

#### **8. CLOSING COSTS.**

**A. SELLER'S CLOSING COSTS.** The Seller shall pay the following closing costs at Closing: releases of existing liens, including prepayment penalties.

**B. BUYER'S CLOSING COSTS.** Buyer shall pay all closing costs at Closing: transfer and resale fees; preparation of deed; loan origination, discount, buy-down, and commitment fees (Loan Fees); appraisal fees; loan application fees; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; mortgagee title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; tax statements or certificates; all escrow fees; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; and other expenses payable by Buyer under this Contract. Buyer shall repay any of the foregoing expenses prior to Closing, if and when requested by the Title Company. Buyer shall also pay Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender. If any expense exceeds an amount expressly stated in this Contract for such expense to be paid by a party, that party may terminate this Contract unless the other party agrees to pay such excess. Buyer may not pay charges

and fees expressly prohibited by FHA, VA, Texas Veterans Housing Assistance Program or other governmental loan program regulations.

**9. WARRANTY.** Buyer acknowledges, understands, and agrees that the only warranty, express or implied, it is receiving regarding the Improvements is the attached Express Builder Warranty, which is provided by Builder not Seller. Builder shall warranty the Improvements according to the Express Builder Warranty. Buyer acknowledges that the terms of the Express Builder Warranty provides for the manner, performance, or quality of the desired construction and is clear, specific, and sufficiently detailed to establish the only standards of construction. **BY EXECUTING THIS CONTRACT AND TO THE EXTENT PERMITTED BY LAW, BUYER ACKNOWLEDGES BUYER IS RELEASING SELLER FROM ALL CAUSES OF ACTION THAT IN ANY WAY RELATE TO ANY EXPRESS WARRANTY FOR THE IMPROVEMENTS AND/OR PROPERTY AND BUYER RELEASES ALL CAUSES OF ACTION AGAINST SELLER AND BUILDER UNDER ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF GOOD AND WORKMANLIKE CONSTRUCTION, IMPLIED WARRANTY OF HABITABILITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE AND STIPULATES THAT SUCH IMPLIED WARRANTIES ARE EXPRESSLY REPLACED BY THE EXPRESS BUILDER WARRANTY.** In the event that the Express Builder Warranty does not specify a building or performance standard, the condition shall be evaluated under the edition of the Residential Construction Performance Guidelines (published by the National Association of Home Builders) in effect as of the Commencement Date (NAHB Guidelines). Should such condition not be covered by the Express Builder Warranty and/or NAHB Guidelines, then such condition shall be evaluated according to the usual and customary industry standards in the region where the Property is located. Seller will not provide a third-party warranty. All warranties on Manufactured Products are assigned, without recourse. Seller and Builder make no warranties of any kind, express or implied, concerning Manufactured Products and expressly disclaim all implied warranties of merchantability, fitness or use for a particular purpose, and any other warranties to the fullest extent permitted by state or federal law. Buyer acknowledges that it has received a reduction in the Total Contract Price in consideration of the provisions contained in this paragraph.

**10. MANDATORY DISPUTE RESOLUTION.** Any and all disputes or claims arising out of or relating to this Contract or the breach thereof, bodily injury, personal property damage, the Improvements or Property, and/or representations made by the Builder Parties (Dispute) shall be settled by binding arbitration before a single arbitrator with the American Arbitration Association (AAA) per its Construction Industry Arbitration Rules. If the Dispute cannot be heard by the AAA for any reason, the Dispute shall be heard by an arbitrator mutually selected by the parties. If the parties cannot agree upon an arbitrator, then either party may petition an appropriate court to appoint an arbitrator. Arbitration shall be subject to 9 U.S.C. § 1 et seq. and/or Tex. Civ. Prac. & Rem. Code, Chapter 171. If either party files suit in violation of this paragraph, such party shall reimburse the other for their costs and expenses, including attorneys' fees, incurred in seeking abatement of such suit and enforcement of this paragraph. Any arbitrator who is

Builder  Buyer 



selected, nominated, appointed, or otherwise agreed to by the Parties shall be a licensed Texas attorney in good standing and have experience representing clients in interpreting or adjudicating contract rights and claims involving financing, construction, operations, and/or maintenance of residential construction projects. Buyer, Seller, and Builder waive their right to a jury trial of any Dispute.

**11. NOTICE REGARDING EXPANSIVE SOILS.** Soils conditions vary greatly throughout Texas. Cracks appear in all foundations to a varying degree as a result of the concrete curing process and the movement of the slab caused by seasonal moisture changes in the soil adjacent to the foundation. It is important for homeowners (Buyer) to keep consistent moisture levels around the foundation and the soil beneath it. To do this, certain people suggest some or all of the following as maintenance procedures to be followed:

- Check the ground around the foundation during rains; no puddles should exist. Fill in low spots with dirt so that water drains away from your home.
- Keep downspout extensions and splash blocks, if provided, in place and in good condition.
- Keep your home gutters and downspouts clean and in good repair. Overflows can result in damage to your home. The Seller also recommends installing full guttering around the home to help control the moisture levels around the foundation and the soil beneath it. Should you install guttering, it is recommended that the downspouts be extended at least three feet away from the foundation.
- Do not change the grade of the soil around your foundation by building planters, raised beds, or other blocking construction which changes the drainage around the house.
- Be certain that all paving or patio slabs abutting your home slope away from the foundation. Check seasonally that they remain that way.
- Be cautious in your planting of trees, shrubs and plants. Trees, in particular, can cause foundation problems if they are too close to the house.
- Do not water your foundation. Water your yard as needed to maintain a proper moisture level.
- Do not allow water or sewer leaks of any type to continue. Check often for those kinds of problems.
- Maintain adequate drainage around the perimeter of your home at all times.

The foregoing is a partial list of homeowner (Buyer) maintenance items and constitutes nothing more than some suggestions to keep in mind with respect to your new home, and is not intended as a warranty, representation or advice from Builder and/or Seller of any kind with respect to any of the matters set forth above. Failure to perform homeowner (Buyer) maintenance items shall void any applicable warranty. Builder and Seller strongly urge and recommend that you engage appropriate and competent professionals to consult with you regarding all such matters.

**12. TERMINATION, DEFAULT, & REMEDIES.**

**A. TERMINATION FOR CONVENIENCE.** Notwithstanding anything herein to the contrary, Seller maintains the right to terminate this Contract for convenience and without regard to fault or breach upon

Builder  Buyer 

payment of the Seller's Option Fee. In the event of such termination, Seller may terminate this Contract by providing written notice to Buyer, payment of the Seller's Option Fee, and neither party shall have any further rights, obligations, or liabilities to the other or under this Contract. Should Seller elect to terminate this Contract, Seller shall refund the Cash Deposit and all other sums Buyer paid Seller pursuant to this Contract. Seller reserves the right to convert any termination of this Contract into a termination for convenience. Seller is not obligated to provide notice prior to terminating the Contract pursuant to this paragraph. Further, should Buyer dispute Seller's termination of this Contract, Buyer is not entitled to cloud the title to or file a lis pendens against the Property, and the parties agree that Seller is entitled to injunctive relief to remove such cloud, regardless of any allegation that Seller breached this Contract. This paragraph shall control, and shall supersede, the application of the provisions of Paragraph 10 in the event the Seller is required to take action to remove such cloud of title.

**B. BUYER DEFAULT.** Each of the following constitutes a Buyer "Act of Default" and a material breach of this Contract by Buyer: (1) Buyer shall file a voluntary petition for bankruptcy or shall be adjudicated bankrupt or insolvent, or shall file any petition for relief under any debtor relief laws; (2) Buyer or Buyer's agents or representatives fail to pay all or any part of the Cash Deposit, Change Order, or the Total Contract Price when due; (3) Buyer is unable to obtain additional financing for an increase in the Total Contract Price due to Change Order; (4) Buyer fails to tender the Final Punch List; (5) Buyer fails to close; or (6) Buyer fails to perform any material obligation.

**C. SELLER DEFAULT.** Each of the following constitutes a Seller "Act of Default" and a material breach of this Contract by Seller: (1) Seller breaches any material provision herein.

**D. NOTICE OF DEFAULT.** If a party hereto commits an act of default, the non-defaulting party shall provide notice of default to the defaulting party; notice shall be deemed to have been received at the earlier of i) receipt of certified mail or ii), no later than three (3) calendar days from the postmark of notice given by certified mail. The defaulting party shall have ten calendar days to cure prior to exercising any remedy provided for herein.

**E. BUYER'S REMEDIES.** Buyer's exclusive remedies shall be limited to the following: (1) Buyer may terminate the Contract and recover the Cash Deposit and all other sums Buyer paid Seller under this Contract, if such Seller Act of Default occurred prior to Closing or (2) Buyer's reasonable cost to repair Seller's defective work, if such Act of Default occurred after Closing. The remedies of specific performance and rescission are waived. In no event shall Buyer be entitled to file a lis pendens or otherwise cloud the title to the Property.

**F. SELLER'S REMEDIES.** Seller's exclusive remedies shall be limited to (i) recovery of any and all damages suffered by Seller, including, but not limited to, payment for all materials, labor, profit, overhead and fees with respect to this Contract and (ii) termination of the Contract and retain all monies previously paid by Buyer to Seller as liquidated damages. Notwithstanding any default by Seller, Seller shall be entitled to seek an injunction to remove any cloud on the title to the Property placed by Buyer and enforce specific performance.



**G. LIMITATION OF CLAIMS & REMEDIES. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL ANY DAMAGES, INCLUSIVE OF ATTORNEYS' FEES AND COURT COSTS, AWARDED TO BUYER PURSUANT TO ANY CAUSE OF ACTION EXCEED THE TOTAL CONTRACT PRICE AND BUYER RELEASES BUILDER AND SELLER FROM ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, ADDITIONAL, KNOWING, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, MENTAL ANGUISH, DIMINUTION OF VALUE, LOSS OF USE OR BENEFIT-OF-THE-BARGAIN, OR ADDITIONAL INTEREST, FORESEEABLE OR NOT, ARISING OUT OF OR IN CONNECTION WITH ANY CLAIMS FOR BREACH OF CONTRACT, BREACH OF WARRANTY (EXPRESS OR IMPLIED), VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT, ANY TORT, OR ANY OTHER BASES OF LIABILITY.**

**H. LIMITATION OF ACTION.** Any action or claim, regardless of form, arising out of the transactions covered by this Contract or construction of the Improvements must be brought within one year (1) and one day of the date the cause of action accrues.

**I. WAIVER OF SUBROGATION.** To the extent permitted by law, the Buyer hereby releases Seller and Builder, their elected and appointed officials, affiliates, subcontractors, employees, volunteers, and others working on behalf of the Seller and/or Builder from any and all liability or responsibility to Buyer or anyone claiming through or under Buyer by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of the Seller, Builder, and/or their elected or appointed officials, affiliates, subcontractors, employees or volunteers or others working on behalf of them. This provision shall be applicable and in full force and effect only with respect to loss of damage occurring during the time of the Seller and/or Builder's occupancy or use, and Buyer's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of the Seller or Builder to recover there under. Buyer agrees that its policies will include such a cause or endorsement.

**13. PRORATIONS, ROLLBACK TAXES, & FEDERAL TAX REQUIREMENTS.**

**A. PRORATIONS.** Taxes for the current year, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. Should the taxes for the current year not be available, the taxes shall be based upon the preceding years tax statements. If taxes are not paid at or prior to Closing, Buyer shall pay all applicable taxes for the current year.

**B. ROLLBACK TAXES.** If Seller's change in use of the Property prior to Closing or denial of a special use valuation on the Property results in additional taxes, penalties or interest (Assessments) for periods prior to Closing, the Assessments will be the obligation of Seller.

**C. FEDERAL TAX REQUIREMENT.** If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. IRS regulations require filing written

reports if cash in excess of specified amounts is received in the transaction.

**14. CASUALTY LOSS.** If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date and prior to Closing and payment of the Total Contract Price, Seller shall restore the Property to its previous condition as soon as reasonably possible but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this Contract and the Cash Deposit will be refunded to Buyer, (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary, or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under any insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this Contract

**15. MISCELLANEOUS.**

**A. BROKER COMMISSION.** No real estate commission or brokerage fees shall be paid hereunder unless a Commission Protection Agreement has been executed. Seller's principal, Rudy Rivas, holds a broker's license in the State of Texas.

**B. NOTICES.** All notices required hereunder must be in writing and must be delivered by either certified mail, return receipt requested, overnight mail with proof of delivery and receipt.

**C. ASSIGNMENT, CONFLICTS & INVALIDITY OF PROVISION.** This Contract may not be assigned by Buyer without the written consent of the Seller. In the event of any conflict between this Contract, any mechanic's lien note, and any mechanic's lien contract, this Contract shall control. If any term, provision, covenant or condition of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**D. INTEGRATION.** This Contract and attachments, constitute the entire agreement of the parties concerning the subject matter hereof, supersede any prior agreement or representations made between Buyer, Seller, and/or Builder, either written or oral, and may only be modified in writing. This Contract shall inure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators, grantees, successors and assigns.

**NO SALESPERSON HAS ANY AUTHORITY TO MODIFY THIS CONTRACT.**

**E. GOVERNING LAW, VENUE, & ATTORNEYS' FEES.** This Contract and the performance of all the obligations set forth in this Contract shall be governed, construed, and enforced by the laws of the State of Texas and this Contract shall be performable in the county where the Property is located. The venue for any lawsuit, claim, or mediation arising out of this Contract shall be in the county where the Property is located. If either party employs an attorney to enforce the terms of or defend a claim brought under this Contract, either by mediation or litigation, the Prevailing Party shall be entitled to reasonable attorneys' fees, mediation fees, court costs and expenses incurred, subject to the provisions set forth in TPC, Chapter 27. Prevailing Party shall mean the party who substantially prevails on the claims or defenses they asserted without regard to



whether such party recovered any relief, direct benefit, or monetary damages.

F. WAIVER. The terms and conditions contained herein and any attachments hereto may be waived only by written instrument executed by the party waiving compliance, save and except change orders. Any such waiver shall only be effective in the specific instance and for the specific purpose for which it is given and shall not be deemed a waiver of any other provision hereof.

G. INTELLECTUAL PROPERTY. All documentation, including but not limited to marketing materials, sketches, floor plans, and photographs, which may have been provided to Buyer concerning this Contract are proprietary to Seller and shall not be reproduced or disseminated in any way by Buyer. Furthermore, Buyer acknowledges and agrees that Buyer shall have no right to copies of Seller's architectural plans or other materials, whether copyrighted or not, of Seller. Buyer agrees that Seller may utilize pictures, videos or other documentation of the Property and Improvements. Buyer is advised that photographs of the Property may be taken by the Seller during performance of the work. Buyer agrees that Seller's use of the photographs in furtherance of Seller's business shall not be limited. Seller may place Seller's signs on the Property during and after construction of the Improvements.


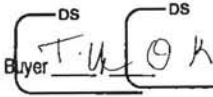
H. SURVIVAL. The terms and agreements set forth herein shall survive the termination and/or default of this Contract, Closing and payment in full of the Total Contract Price.

I. NO CONSTRUCTION AGAINST DRAFTSMEN. The provisions of this Contract shall be construed without regard to the rule requiring adverse inferences to be drawn against the drafter of this Contract.

J. TEXAS PROPERTY CODE, SECTION 27.007. The Contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from the performance of this Contract. If you have a complaint concerning a construction defect arising from the performance of this Contract and that defect has not been corrected through normal warranty service, you must provide notice required by Chapter 27 of the Texas Property Code to the Seller by certified mail, return receipt requested, not later than the 60<sup>th</sup> day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code, and must describe the construction defect.

K. SELLER'S OPTION PER TEXAS PROPERTY CODE § 27.0042. In the event that the reasonable cost of repair necessary to repair a construction defect or defects in or related to the Property that are the responsibility of Seller exceeds 10% of the then current fair market value of the Property, as determined without reference to the construction defect(s), Seller may elect to repurchase the Property in accordance with Section 27.0042 of the Texas Property Code. This right of election shall survive the Closing and the delivery of the special warranty deed to the Property from Seller to Buyer and shall be binding on Buyer's successors and assigns.

THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY

Builder  Buyer 



**IMPORTANT DISCLOSURES**

**IMPORTANT NOTICE. YOU AND YOUR BUILDER ARE RESPONSIBLE FOR MEETING THE TERMS AND CONDITIONS OF THIS CONTRACT. IF YOU SIGN THIS CONTRACT AND YOU FAIL TO MEET THE TERMS AND CONDITIONS OF THIS CONTRACT, YOU MAY LOSE YOUR LEGAL OWNERSHIP RIGHTS IN YOUR HOME. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

**REPRESENTATIONS.** In executing this Contract, Buyer warrants that Buyer is not relying on any oral representations or promises, express or implied, made by the Builder Parties not specifically set forth herein and Buyer waives all claims against the Builder Parties for fraud in the inducement.

**EXPRESS BUILDER WARRANTY.** Buyer acknowledges receipt of the Express Builder Warranty and represents to Seller that Buyer has read the Express Builder Warranty in its entirety and agrees that all claims or allegations of construction defects shall be evaluated according to the terms and conditions of the Express Builder Warranty and this Contract.

**DISCLAIMER.** Rudy Rivas, a member of M. Christopher Residential, L.L.C. holds a broker's license in Texas.

DocuSigned by:

**BUILDER: M. Christopher Residential, L.L.C.**

Buyer Signed by: T.U.  
87268709C2B34AE...  
1017 Armstrong circle, Clovis NM 88101

By: [Signature]

Printed Name: Rudolph Rivas

Its: Chief Executive Officer

Address: 550 S. State Hwy. 5, Fairview, Texas 75069

Phone: 214.736.6335

Address:

Phone: 5757997575

Fax: tkokoricha@yahoo.com

Email:

**SELLER: MCCH Industries, L.L.C.**

By: [Signature]

Printed Name: Bryon Reid

Its: President

Address: 550 S. State Hwy. 5, Fairview, Texas 75069

Phone: 214.736.6335

Address:

Phone: 5752197118

Fax:

Email: okokoricha@yahoo.com

Executed on this the 31 day of August, 2015 (Effective Date).

**CONTRACT & CASH DEPOSIT RECEIPT**

Receipt of ☒ Contract and ☐ \$ \_\_\_\_\_ Cash Deposit is acknowledged.

Builder

M. Christopher Residential, LLC

By:

Hanna Daughters

Address

550 S. State Hwy 5

City State Zip

Fairview, Tx 75069

Date

8/25/15

Email Address

hanna@mchristopher.net

Phone Number

214-288-9456

Fax Number

972-529-1078

Builder

Buyer